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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,089	08/11/2000	Danny Murphy	N-6447	7544

7590                    07/24/2003

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[REDACTED] EXAMINER

BUI, KIM T

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 07/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/638,089	MURPHY, DANNY
Examiner	Art Unit	
Kim T. Bui	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 19 May 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 22-48 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 05/19/03. Claims 1-21 are cancelled. New claims 22-4 have been added.

***Claim Objections.***

2. The objections to the claims is hereby withdrawn due to the amendment file 05/19/03.

***Claim Rejections - 35 USC § 112***

3. The rejection of the claims under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 05/19/03.

***Claim Objections.***

4. "analysis apparatus of claim 41" in claim 34, line 2 should read "analysis apparatus of claim 31".

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 29, 35-41 and 47-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) "the selected pre-recorded music product life-cycle" in claim 29, lines 6-7 lacks clear antecedent basis.

(B) "said rank scores" in claim 35, line 28 lacks proper antecedent basis.

(C) "said rank scores" in claim 47, lines 4 lacks clear antecedent basis.

(D) Dependent claims 36-41, 48 incorporate the deficiencies of claim 35 and therefore rejected.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 22-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (5963916) in view of Leeke et al. (6587127).

(A) As per claim 22, Kaplan discloses a network system for interactive preview by customer comprising:

a. providing database for storing pre-recorded music product information, demographic and preference information. See col. 4, lines 55-60, col. 7, lines 4-6, col. 10, lines 55-59 of Kaplan;

b. storing product information in database (See col. 4, lines 55-60 of Kaplan);  
c. providing interactive communication access through wide area network (i.e., Internet) to a user (i.e. consumer). See col. 9, lines 35-37, Fig. 7, col. 4, lines 33-40 of Kaplan);

d. collecting and storing demographic information of user (i.e. consumer). See col. 7, lines 4-5, lines 15-17, col. 5, lines 20-21 of Kaplan;

e. enabling selectable interactive access to the product information via the wide area network (i.e., Internet) for the user (i.e. consumer). See col. 4, lines 36-38, lines 65-68 of Kaplan;

f. collecting preference information from the user (i.e. consumer) corresponding to the selected product over the Internet, the preference information comprising user's familiarity or recognition of the product (i.e. Madonna album), user's rating comprising excellent, poor (i.e., user's enjoyment , user's fatigue) of the selected product. See col. 16, lines 20-25, fig. 19, fig. 42, lines col. 16, line 56, of Kaplan;

g. storing the collected preference information in database. See col. 5, line 15, col. 7, lines 15-17, lines 53-55, col. 10, lines 62-65 of Kaplan;

h. providing interactive communication access through the wide area network (i.e., the Internet) to a user (i.e. client). See col. 10, line 66 to col. 11, line 1, col. 16, lines 53-56, col. 4, lines 38-40 of Kaplan;

i. enabling a user (i.e. client) through the wide area network searchable access to the product information. See col. 10, lines 60-65, col. 11, line 59 to col.12, line 23 of Kaplan;

j. searching the data base to report selected preference information and demographic information corresponding to selected product. See col. 8, lines 33-49, col.13 lines 55-66, col. 10, lines 62-65, col. 16, lines 65-57, lines 24-25, col. 13, lines 57-66, col. 10, lines 62-65, col. 4, lines 38-40 of Kaplan of Kaplan.

Kaplan fails to recite the preference information comprising user's source of exposure. This difference is disclosed by Leeke et al.. Leeke et al. teaches a client-

server communication network for administrating of audio contents (i.e. music) comprising database for storing use profile and preferences information comprising source of exposure (i.e. radio stations), see col. 29, lines 30-44 of Leeke et al. It would have been obvious to one having ordinary skill in the art at the time of the invention to include source of exposure information with the motivation of providing more details of user listening preference for the purpose of improving customer satisfaction. See col. 6, lines 43-45 of Leeke et al.

As per the terms "client user " and "customer user" recited in the claim. It is the examiner's position that the terms "client" and "consumer" can be used in an interchangeable manner. Applicant is noted that the user(s) as disclosed in Kaplan can be a subscriber user (i.e. client). See col. 7, lines 15-25 of Kaplan, The subscriber user might also be a consumer if he/she decides to purchase the product. See col. 18, lines 1-10 of Kaplan. Furthermore, Kaplan teaches that the web site user can access the music store as a member or as a visitor. See col. 15, lines 45-46 of Kaplan.

(B) As per claim 30, Kaplan discloses a demographic information and preference information collection analysis apparatus comprising:

- a. computer database system for storing product, demographic and preference information. See col. 4, lines 55-60, col. 7, lines 4-17, col. 9, lines 30-35, col. 10, lines 55-59 of Kaplan;
- b. a wide area network adapted to collect demographic and preference data of user (i.e. consumer) for storing in database. See col. 9, lines 35-37, col. 10, lines 50-65 of Kaplan.

c. interactive communication means for providing user (i.e. client, customer) searchable access to database for product information the Internet (i.e. wide area network). See col. 10, line 60 to col. 11, line 1, col. 16, lines 53-56, col. 4, lines 38-40, col. 11, line 59 to col. 12, line 23, col. 8, lines 33-49, col. 13 lines 55- col. 14, line 55, col. 10, lines 62-65, of Kaplan;

Kaplan teaches on col. 7, lines 4-6 the general music preferences, on col. 16, lines 20-25, the user 's familiarity or recognition of the music product (i.e., Madonna album), and on col. 16, line 56, Fig. 19, Fig. 42, the rating or preference information such as good, excellent, good (i.e. user's enjoyment). Kaplan fails to teach the user's source of exposure. This, however, is well known as evidenced by Leeke et al.. Leeke et al teaches a client-server communication network for administrating of audio contents (i.e. music) having database for storing use profile and preferences information comprising source of exposure (i.e. radio stations), see col. 29, lines 30-44 of Leeke et al. It would have been obvious to one having ordinary skill in the art at the time of the invention to include "source of exposure information" with the motivation of providing more details of user listening preference for the purpose of improving customer satisfaction. See col. 6, lines 43-45 of Leeke et al.

As per the recitation of a first and a second interactive communication means, the courts have upheld that it is obvious to duplicate parts for multiple effects. *In re Harza*, 124 USPQ 378,380;274F.2d669 (CCPA 1960). Regarding the terms "client user" and "customer user" recited in the claim. It is the examiner's position that the terms "client" and "consumer" can be used in an interchangeable manner. Applicant is noted

that the user(s) as disclosed in Kaplan can be a subscriber user (i.e. client). See col. 7, lines 15-25 of Kaplan. The subscriber user might also be a consumer if he/she decides to purchase the product. See col. 18, lines 1-10 of Kaplan. Furthermore, Kaplan teaches that the web site user can access the music store as member or as a visitor. See col. 15, lines 45-46 of Kaplan.

(C) As per claims 23, 31, Kaplan teaches that demographic comprising age, income, education, gender, geographic parameter. See col. 21, line 3 to col. 22, line 2, col. 13, lines 59-60, col. 8, lines 35-36 of Kaplan. Kaplan does not expressly recite zip code, city, state, region, country. However, it is well known to identify geographic area by such readily available post office identifier (i.e., zip code, city, state etc.). One having ordinary skill in the art at the time of the invention would have found it obvious to include these identifiers to specify the geographic parameter with the motivation of conforming to standard practice.

(D) As per claims 24, 32, Kaplan teaches the administrations functions comprising inputting, updating product information, e-mail, issuing accounts, retrieving preview including preference information. See col. 9, lines 31-35, col. 13, lines 50 to col. 14, lines 3, col. 10, lines 60-65, col. 7, lines 25-31, col. 16, lines 21-25, lines 53-56, col. 18, lines 8-10, col. 17, lines 7-10, col. 14, lines 4-15, col. 12, lines 5-22, Fig. 57 of Kaplan.

(E) As per claim 25, Kaplan teaches product information comprising artist name, song title, album name, music types, music genres (see col. 17, lines 7-10, col. 14, lines 4-15, col. 12, lines 5-22 of Kaplan).

(F) As per claims 26, 27, 33, 34, Kaplan teaches on col.7, lines 4-6 the general music preferences and on col. 16, lines 20-25, col.16, line 56, Fig. 19, Fig. 42 the user 's familiarity or recognition of the music product (i.e., Madonna album), the rating or preference information such as good, excellent, poor etc.(i.e. passion, burn etc..) Kaplan does not teach a numerical value preference parameter. This is well known as evidenced by Leeke et al. (see col. 23, lines 25-35 of Leeke et al.). It would have been obvious to one having ordinary skill in the art at the time of the invention to include numerical preference parameter into Kaplan's system with the motivation of providing a tool for music ranking. See col. 1 lines 46-48 of Leeke et al.

(G) As per claims 28,29, Kaplan teaches the searching tool for searching database based on various criteria comprising at least the user's familiarity or recognition of the product. See col. 16, lines 25-26, col. 6, of 65-69. Kaplan teaches the providing of report including rating information. See col. 13, lines 60-66. Kaplan. Furthermore, Leeke et al teaches the report of rating information in ranking scores. See col. 35, line 65 to col. 36, line 1 of Leeke et al. Regarding the period of time for reporting, Kaplan teaches the updating of product as well as the new release category. See col. 9, lines 31-35, col. 8, lines 35-35, col. 16, lines 24-25. It is readily apparent that the reporting of the product/ new release including rating information occurred during the life cycles /new lease status of the product/new release.

9. Claims 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (5963916) further in view of Leeke et al. (6587127) and Linden et al. (6266649).

(A) As per claim 35, Kaplan discloses a preference rating pre-recorded music products using the wide area network (i.e., the Internet) comprising the steps:

a. providing web server having database for storing music product, demographic and preference information . See col. 7, lines 4-17, col. 9, lines 29-35, col. 10, lines 15-30, lines 55-59 of Kaplan.

b. providing selectable interactive access to product information through the wide area network for a user (i.e., client, consumer). See col.10, line 60 to col. 11, line 1, col. 16, lines 53-56, col. 4, lines 38-40 of Kaplan.

c. collecting and storing preference data from user corresponding to selected product over the wide area network. The preference data comprising at least one selected from the general preference, the user's familiarity or recognition (i.e. Madonna album), and the use's enjoyment of the product (i.e, good, excellent, poor etc..). See col.7, lines 4-6, col. 16, lines 20-25, line 56, Fig. 19, fig. 42.

d. searching the database to report information comprising rating corresponding to products. See col. see col.8, lines 33-49, col.13 lines 55-65, col. 14, line 55, col. 10, lines 62-65, col. 16, lines 65-57, lines 24-25, col. 10, lines 62-65, col. 4, lines 38-40 of Kaplan of Kaplan.

Kaplan fails to teach a numerical preference parameter, the calculating of weighted scores for music raking. It is, however, well known to use numerical parameter and ranking scores for music rating and ranking as evidenced by Leeke et al. Leeke et al teaches a music recommendation system including numerical rating and calculating of scores. See col. 23, lines 23-35, col. 35, line 65 to col.36, line 16,col. 37, lines 21 to

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col. 38, line 45 of Leeke et al.. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kaplan to include numerical parameter and score for the motivation of providing music ranking tool for customer satisfaction and report generating. See col. 1, lines 40-48, col. 38, lines 27-45, col. 6, line 66 to col. 7, line 2 of Leeke et al. Kaplan and Leeke et al fail teach the use of weighting factor for rating/ranking purpose. It is, however, well known, to use a weighting factor when rating/ranking items (i.e. books, CDs, videos etc.) as evidenced by Linden et al. See col. 12, line 8, col. 14, lines 44 to col. 15, line 34 of Linden et al. It would have been obvious to one having ordinary skill in the art at the timer of the invention to include weighting factor for rating/ranking for the motivation of customizing the rating/raking to current interest of users.

(B) As per claim 36, Kaplan teaches on col.7, lines 4-6 general music preferences and col. 16, lines 20-25, line 56, Fig. 19, Fig. 42 the user 's recognition of the music product (i.e., Madonna album), the rating or preference information such as good, excellent, poor etc.( i.e. passion, burn etc..) Kaplan does not teach a numerical value preference parameter. This is well known as evidenced by Leeke et al. (see col. 23, lines 25-35 of Leeke et al.). It would have been obvious to one having ordinary skill in the art at the time of the invention to include numerical preference parameter into Kaplan's system with the motivation of providing a tool for music ranking. See col. 1, lines 46-48 of Leeke et al.

(C ) As per claims 37, 40 Kaplan teaches the collecting and storing demographic data in database and the searching the database to report information comprising rating

corresponding to products. See col.8, lines 33-49, col.13 lines 55-65, col. 14, line 55, col. 10, lines 62-65 of Kaplan. Kaplan fails to teach the rank score. This, however, is disclosed by Leeke et al. Leeke et al. teaches the sum score for music ranking on col. 35, line 65 to col.36, line 16,col. 37, lines 21 to col. 38, line 45. .). It would have been obvious to one having ordinary skill in the art at the time of the invention to include numerical preference parameter into Kaplan's system with the motivation of providing a tool for music ranking. See col. 1, lines 46-48 of Leeke et al.

(D) As per claim 38, 39, Leeke et al. suggest copyright (i.e. ownership) for a preference category. Based on the user selection (i.e preference), the tracks are played and rating are entered for reporting purpose. See Fig. 26, Fig. 27, col. 22, line 60 to col. 23, line 4, col. 38, lines 33-36 of Leeke et al.

(E) As per claim 41, Kaplan teaches that demographic comprising age, income, education, gender, geographic parameter (see col 21, line 3 to col. 22, line 2 , col. 13, lines 59-60, col. 8, lines 35-36 of Kaplan. Kaplan does not expressly recite zip code, city, state, region, country. However, it is well known to identify geographic area by such readily available post office identifier (i.e., zip code, city, state etc.). One having ordinary skill in the art at the time of the invention would have found it obvious to include these identifier to specify the geographic parameter with the motivation of conforming to standard practice.

10. Claims 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (5963916) further in view of Slotnick (6108640)

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(A) As per claim 42, Kaplan teaches the method for collecting preference information of user (i.e. customer) for pre-recorded music product over the Internet (i.e. wide area network) comprising the steps of:

- a. providing server having database for storing product, preference and demographic information. See col. 4, lines 55-60, col. 7, lines 4-17, col. 9, lines 29-35, col. 10, lines 15-30, lines 55-59 of Kaplan.
- b. collecting and storing product information including released date and at least one of song name, music type, music genres, etc.. and released date. See Fig. 19,col. 10, lines 62-65, col. 17, lines 7-10, col. 14, lines 4-15, col. 12, lines 5-22 of Kaplan.,
- c. providing selectable interactive access to product information for a user (i.e., customer) via the Internet (i.e.. wide area network). See col.10, line 60 to col. 11, line 1, col. 16, lines 53-56, col. 4, lines 38-40 of Kaplan.
- d. collecting and storing in database preference information corresponding to selected product and release status over the Internet, the preference information comprising at least one of customer's rating such as, excellent, poor (i.e., enjoyment, fatigue); customer's product of interest, such as, new released Madonna album (i.e., recognition). See col. 16, lines 20-25, lines 55-56, Fig. 19,Fig. 42 of Kaplan.
- e. providing searchable access to the user (i.e. client) via the Internet to at least one of product; history preview including rating (i.e. preference); and demographic stored in database. See Fig. 5A, Fig 8G, Figs 22-27, Figs 36-37,col. 10, lines 60-65, col. 12, lines 48-68, col. 13, lines 55-60,col. 16, lines 53-56 of Kaplan.

f. searching the database to generate report or provide the user(i.e. to report ) selected preference information and demographic information corresponding to release status and selected product . See col. 13, lines 57-65, col. 16, lines 20-26, col. 16, lines 53-56,,col. 10, lines 62-65.

Kaplan teaches the new release date and the addition of a new release album. See Fig. 19, col.8, lines 35-36, col.16, lines 23-25 of Kaplan. Kaplan,however, fails to recite the steps for calculating the time to assign the release status periodically. This difference is disclosed by Slotznich. Slotznich discloses a method for calculating on a periodic basis the occurrence of an occasion (i.e. release). The system calculates and compares time and interval based at least the system internal clock, occasion date (i.e. first data of release) and occasion formula (i.e., to determine the occurrence of the occasion comprising the steps:

a. storing occasion(s) (i.e. release status) and formula expressed at least in unit of time (i.e. release status rules). See Fig. 10, col. 5, lines 59-61,col. 8, lines 50 to col. 9, line 30 of Slotznich.

b. storing periodic recalculation value in unit of time , such as, weekly, monthly annually. See col. 5, lines 62 to col. 6, line 6, col. 15, line 65-68, col. 16, lines 23-30,col. 17, lines 38-39, col. 22, lines 8-12 of Slotznich.

c. calculating number of days (i.e. lapsed time) since the reference date , See col. interval (i.e. col. 13, lines 20-30, lines 40-41, col. 22, lines 54-61, col. 33, lines 49-51, col. 34, lines 21-43 of Sloznich

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d. determining and storing the occurrence of the occasion (i.e. release) by comparing and keeping track of the date and time interval (i.e. comparing lapsed time with reference date and current date for each specific formula). See col. 13, lines 40-60, col. 14, lines 10-17, lines col. 17, lines 50-55, col. 22, 25-25-28, col. col. 22, lines 54-61, col.31, lines 30-43 of Slotznich.

f. automatically assigning the reoccurrence of occasion periodically. See col. 18, lines 3-4, col. 22, lines 8-13, lines 55-60 of Slotaznich .

Since Kaplan teaches the release date of the product, the release status and the monitoring of addition release (Fig. 19, col. 16, lines 23-25, col. 8, lines 35-36 of Kaplan) . It would have been obvious to one having ordinary skill in the art to modify Kaplan with the automatic occasion calculation tool disclosed by Slotznich with a motivation of providing an accurate and automatic tool to track the occurrence of release dates and status of products that is essential to customer service and satisfaction. See col. 3, lines 34-36 of Slotznich.

(B) As per claims 43-46, new release status is disclosed by Kaplan. See col. 8, lines 35-36 of Kaplan, Slotznich teaches a daily, weekly, monthly and yearly unit of time for periodic and occasion formula. See col. 15, lines 65-68, col. 22, lines 10-12 of Slotznich.

11. Claims 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (5963916) in view of Slotznick (6108640) and further in view of Leeke et al (6587127)

(A) As per claim 47, Kaplan teaches the steps for collecting, storing demographic data and searching database for preview including rating corresponding to product and

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demographic on col. 15, lines 55-64, col. 13, lines 57-66, col. 10, lines 60-65. Kaplan fails to teach ranking scores. This is well known as evidenced by Leeke et al. (see col. 35, line 65 to col. 36, line 16, col. 37, lines 21 to col. 38, line 45 of Leeke et al). It would have been obvious to one having ordinary skill in the art at the time of the invention to include rank scores into Kaplan's system with the motivation of providing a tool for music ranking. See col. 1, lines 46-48 of Leeke et al.

(B) As per claim 48, Kaplan discloses demographic parameter comprising at least age and geographic location. See col. 21, line 3 to col. 22, line 2, col. 8, lines 35-36 of Kaplan. Kaplan does not expressly recite zip code, city, state, region, country. However, it is well known to identify geographic area by such readily available post office identifier (i.e., zip code, city, state etc.). One having ordinary skill in the art at the time of the invention would have found it obvious to include these identifiers to specify the geographic parameter with the motivation of conforming to standard practice.

#### ***Response to Arguments***

12. Applicant's arguments filed 05/19/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below.

(A) On page 17, Applicant argues that "Kaplan does not teach collection of preference information comprising the consumer user's familiarity and recognition of the selected pre-recorded music product and consumer's source of exposure to the selected pre-recorded music product". As discussed in the above rejection, Kaplan teaches on col. 7, lines 4-6 the general music preferences, on col. 16, lines 20-25, the user 's familiarity or recognition of the music product (i.e., Madonna album), and on col.

16, line 56, Fig. 19, Fig. 42, the rating or preference information such as good, excellent, good (i.e. user's enjoyment). Kaplan fails to teach the user's source of exposure. This, however, is by Leeked et al on col. 29, lines 30-44. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., subjective, measures the persistence) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding to the features "selective interactive access" and "search selected preference information and demographic corresponding to selected product" and "selective interactive access for consumers to search selected product information"; Kaplan teaches selective searching and interactive access to the user for product, for demographic, and preview including rating (i.e. preference). See col. 16, lines 65-57, lines 24-25, col. 13, lines 57-66, col. 10, lines 62-65, col. 4, lines 38-40 of Kaplan. Furthermore, it is noted that the claim language broadly recite" (see claim 22, 35, 42 of the present application). Applicant also argues that Kaplan teach away from the present invention in that the present invention measures the persistence of the consumer user's recognition and subjective preferences of a pre-recorded music product. The Examiner disagrees, Kaplan teaches the objectives of the invention, that are, collecting and storing customer demographic and preferences information of pre-recorded music products over the Internet, enabling users to access and/or search the databases for product and demographic or rating (i.e. preferences) information, enabling

administration functions (i.e. e-mail, updating databases, retrieving information, issuing account etc..), as discussed in the above rejection, and therefore, does not teach away from the applicant's invention. Furthermore, the claims of the present application do not recite "invention measures the persistence of the consumer user's recognition and subjective preferences of a pre-recorded music product" argued by the applicant.

(B) On page 18, Applicant argues the differentiation between users. Applicant is noted that the user(s) as disclosed in Kaplan can be a subscriber user (i.e. client). See col. 7, lines 15-25 of Kaplan. The subscriber user might also be a consumer if he/she decides to purchase the product. See col. 18, lines 1-10 of Kaplan. Furthermore, Kaplan teaches that web site user can access the music store as member or as a visitor. See col. 15, lines 45-46 of Kaplan. In regard to the numerical preference parameter, the scores, the ranking, the weighted sum. These features are well known in the art and are disclosed in Leeke et al and Linden as discussed in the above rejection, incorporated herein.

(C) Lastly, on page 19, Applicant argues the calculation of time to reassigning the release status. This is conventional as discussed in the rejection of claims 42-48, incorporated herein.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "System and method for access to video programs using customer profile" (6020883); "Music content characteristic identification and matching" (6545209); Time based availability to content of storage medium" (5825876), "

"MusicMatch to Integrate Window Media Video into Jukebox", PR NEWSWIRE, Nov. 30, 1999, JOURNAL CODE: WPRW, Dialog File 20, ACC. 08462333.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Bui whose telephone number is 703-305-5874. The examiner can normally be reached on Monday-Friday from 8:30A.M. to 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

WJD

KTB

July 21, 2003

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600